

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE:	:	Chapter 7
	:	
CHARLES S. TURNER,	:	BANKRUPTCY CASE
	:	NO. 00-72597-PWB
Debtor.	:	
_____	:	

**ORDER WITH REGARD TO TRUSTEE'S ABANDONMENT OF PROPERTY
AND DEBTOR'S MOTION TO AVOID LIEN**

The Trustee filed a notice of abandonment [46] of the estate's undivided interest in about 40 acres of real property in Greene County, Georgia, that the estate acquired as a result of the Trustee's avoidance of the Debtor's prepetition conveyance of the undivided interest to the co-owners, who are relatives of the Debtor. Because of a number of issues relating to the ownership interests of the Debtor's relatives in the Greene County property, the Trustee asserts that he cannot economically sell the debtor's undivided interest, obtain a partition of the real estate, or sell the co-owners' interests under 11 U.S.C. § 363(h). The estate has no other assets, so creditors will receive no

distribution on their claims, and the Trustee and his attorneys¹ will not be paid for their services, if the Trustee cannot turn this asset into money.

Frank D. Smith objected to the proposed abandonment. [48]. Mr. Smith and Elvira T. Smith² obtained a judgment against the Debtor by default in the Superior Court of DeKalb County, Georgia, on May 25, 1999, which was recorded in DeKalb County on August 12, 1999.³ After the filing of the Debtor's chapter 7 bankruptcy case on September 27, 2000, and his discharge on April 5, 2001, the Smiths obtained a further writ of fieri facias on February 27, 2006, which was recorded that day in DeKalb County. [Proof of Claim No. 2, page 3]. The judgment creditors have, by far, the largest claim in the case and would receive substantially all of the net proceeds realized from the liquidation of the undivided interest in the Greene County property, after payment of the trustee and his attorney.

The Debtor indirectly supports abandonment by challenging the rights of the judgment creditors to enforce their claim and lien and, consequently, their right to object to abandonment. In this regard, the Debtor filed a "Motion to Avoid Lien" [52] and requested that the Court hear it at the same time as the objection to abandonment.

The Debtor's motion asserts that the Smiths violated the automatic stay of 11 U.S.C. § 362(a) and the discharge injunction of 11 U.S.C. § 524 by obtaining and recording the fi. fa. in February

¹The Trustee is serving as his own counsel in this case pursuant to 11 U.S.C. § 327(d).

²Elvira Smith has not participated in the case or in any of the adversary proceedings, but was made an involuntary plaintiff in Adversary No. 05-9141 and is bound by the judgments entered in the adversary proceedings with which it was consolidated, Nos. 02-6433 and 02-6435. See Order Directing Entry of Final Judgments, Adv. No. 02-6433 [87] (Jan. 3, 2007).

³Mr. Smith assigned 20 percent of his interest in the judgment to Peter Mancuso on October 30, 2001. The assignment is immaterial to the issues considered here, and this Order for simplicity refers to the Smiths as the holder of the judgment.

2006. The Motion seeks avoidance and cancellation of the lien on the Debtor's property, disallowance of the Smiths' claim in this case, disallowance of their objection to the Trustee's abandonment of the Greene County property, an injunction against the Smiths filing their lien in any county, and attorney's fees. Although not expressly stated in the motion, the Debtor's challenge to the rights of the judgment creditors is based in part on the Court's ruling that the Debtor was not indebted to them. As discussed below, the ruling occurred in connection with determination of the Debtor's insolvency in the Trustee's adversary proceeding against the Debtor's wife to set aside the conveyance of his interest in their marital residence in DeKalb County, Georgia.

The Court conducted a hearing on December 18, 2007, on the objection to abandonment and the Debtor's motion. At the end of the hearing, the Court announced its findings of fact and conclusions of law pursuant to FED. R. BANKR. P. 7052, *incorporating* FED. R. CIV. P. 52(a). This Order summarizes and supplements the Court's findings of fact and conclusions of law.

I. BACKGROUND AND RESULTS OF PRIOR LITIGATION

Proper discussion of the issues requires a review of the history of the claim of the Smiths and the prior litigation that has brought the parties to their current situations.

The story begins in late 1996, when Frank and Elvira Smith hired the Debtor's company to do work on their home and a dispute ensued. At that time, the Debtor owned interests in two parcels of real estate. First, he owned an undivided one-half interest in a residence in DeKalb County, Georgia, with his wife, Eunice Turner. Second, he owned an undivided two-thirds interest in about 40 acres in Greene County, Georgia, with two of his brothers, Roy Lee Turner, Sr. and James Zo Turner.

The Smiths sued the Debtor in DeKalb County in March 1997. Two months before, in

January 1997, the Debtor had transferred his one-half interest in the marital residence to his wife. Two years later, in January 1999, the Debtor transferred his undivided interest in the Greene County property to the co-owners, his brothers, Roy Lee Turner, Sr., and James Zo Turner. The children of Roy Lee Turner, Sr., Roy Lee Turner, Jr., and Dorothy Ross, succeeded to their father's interest in the property (including the interest transferred by the Debtor) after his death. James Zo Turner, Roy Lee Turner, Jr. and Dorothy Ross are referred to, collectively, as the "Turner Relatives."

The Smiths obtained a judgment by default against the Debtor in August 1999 in the amount of approximately \$61,500 and recorded it on August 12, 1999, in DeKalb County.

The Debtor filed his bankruptcy petition on September 27, 2000, and received his discharge on April 5, 2001. The Trustee filed two adversary proceedings to set aside the transfers as fraudulent conveyances under former O.C.G.A. § 18-2-22.⁴ He filed one against the Debtor's wife (Adversary No. 02-6433) to recover the Debtor's transferred interest in the marital residence and one against the Turner Relatives (Adversary No. 02-6435) to recover the Debtor's transferred interest in the Greene County property.

After the filing of the adversary proceedings, Mrs. Turner conveyed a one-half interest in the residence to the Debtor. As co-owners, they then jointly executed a security deed in favor of Indymac Bank, F.S.B. ("Indymac") to secure a loan of \$75,000. The Trustee amended his complaint against Mrs. Turner to assert, in addition to avoidance of the prepetition transfer and recovery of the Debtor's one-half interest in the residence, the loss of equity in that interest resulting from the

⁴The former law applied to these transactions because they occurred prior to July 1, 2002, the effective date of the statute that revised Georgia's fraudulent transfer law by enacting the Uniform Fraudulent Transfer Act, 2002 Ga. Laws 141, now codified at O.C.G.A. §§ 18-2-70 to 18-2-80. *Chepstow v. Hunt*, 381 F.3d. 1077 (11th Cir. 2004). The Trustee has the right under 11 U.S.C. § 544(b) to avoid transfers by a debtor that are fraudulent under state law.

encumbrance in favor of Indymac. The Trustee did not challenge Indymac's security deed, but the Smiths in a separate adversary proceeding (Adversary No. 05-9141) asserted that their judgment lien attached to the Debtor's interest in the property he acquired from Mrs. Turner and that the judgment lien had priority over Indymac's security deed in the Debtor's one-half interest he acquired postpetition.

The Court consolidated the three adversary proceedings.⁵ Determining that the best way to proceed was to try the Trustee's fraudulent transfer claims before addressing other issues whose resolution might differ based on that outcome, the Court scheduled a trial on the issues in the two adversary proceedings brought by the Trustee, Nos. 02-6433 and 02-6435, to set aside the two transfers.

After hearing the evidence, the Court made findings of fact and conclusions of law summarized in an Order entered on September 21, 2006.⁶ The Court ruled that the Debtor's transfer of his undivided interest in the Greene County property was a constructively fraudulent transfer under former O.C.G.A. § 18-2-22(3) because it was a voluntary transfer for no consideration made while the Debtor was insolvent.⁷ The Court entered a final judgment avoiding the Debtor's transfer of the undivided interest and setting aside the interests that the Turner Relatives had acquired by virtue of that transfer.⁸

⁵Order With Regard to Consolidation and Scheduling, Adv. No. 02-6433 [44], Adv. No. 02-6435 [34], and Adv No. 05-9141 [17] (Mar. 3, 2006).

⁶Order, Adv. No. 02-6433 [58] (Sept. 21, 2006).

⁷*Id.*

⁸Final Judgment (Adversary No. 02-5435), Adv. No. 02-6433 [89] (Jan. 3, 2007).

With regard to the transfer of the interest in the residence, the Court in the September 21, 2006, Order ruled that the Trustee had not shown that it was avoidable as an actually fraudulent conveyance under former O.C.G.A. § 18-2-22(2) but that it was potentially avoidable under former O.C.G.A. § 18-2-22(3) as a voluntary transfer without consideration if the Debtor were insolvent at the time of the transfer. The Court concluded that the controlling issue with regard to solvency was whether the Debtor was actually liable to the Smiths and that Mrs. Turner was not bound by the default judgment on this issue. The Court reopened the evidence and scheduled a trial on the issue of liability of the Debtor to the Smiths for purposes of determining the Debtor's solvency.⁹

After trial, the Court determined that the evidence did not establish that the Debtor was indebted to the Smiths. Consequently, the evidence did not establish the Debtor's insolvency at the time of the transfer of his interest in the marital residence to his wife. Thus, the transfer was not avoidable as a fraudulent conveyance.¹⁰

Having resolved these issues, the Court determined the remaining issues in the consolidated proceedings based on undisputed material facts.¹¹ The Court ruled that, because the transfer to the Debtor's wife occurred prior to entry of judgment in favor of the Smiths, their judgment lien could not have attached to it prior to the Debtor's postpetition acquisition of a one-half interest from his wife after the filing of his bankruptcy petition. Because the Debtor received a discharge in his bankruptcy case, the judgment lien could not, and did not, attach to any property acquired by the Debtor after the filing of his bankruptcy case under 11 U.S.C. § 524. The judgment lien, therefore,

⁹Order, Adv. No. 02-6433 [58] (Sept. 21, 2006).

¹⁰Order Directing Entry of Final Judgments, Adv. No. 02-6433 [87] (Jan. 3, 2007).

¹¹*Id.*

did not attach to the Debtor's postpetition interest in the residence, and the judgment lien had no priority over the Bank's security deed. Specifically, the Court ruled:¹²

Because the prepetition transfer [of the marital residence] is not avoidable and the Debtor had no interest in the Residence at the time the Smiths acquired the lien, the Bank and the Debtor are entitled to judgment as a matter of law that the judgment lien does not attach to the Debtor's interest in the Residence and that the judgment lien does not have priority over the Bank's security deed.

The Court entered final judgment determining that the prepetition transfer by the Debtor of his interest in the marital residence was not a fraudulent conveyance and that the judgment lien did not attach to any interest of the Debtor in the marital residence.¹³ This judgment makes it clear that the lien of the judgment creditors does not attach to the residence. Although the request of the Debtor to avoid the judgment lien on the residence is arguably unnecessary, there was no opposition to the entry of an further order avoiding the lien to the extent that it attaches to the marital residence, and the Court will enter a separate order to that effect.

II. DISCUSSION

The Trustee has now determined that he cannot market and sell the estate's undivided interest in the Greene County property recovered as a fraudulent transfer. The Trustee has demonstrated that he has carefully examined title problems relating to the estate's undivided interest. The Court agrees with the Trustee that, if the problems can be resolved at all, they cannot be resolved without

¹²*Id.* at 9-10.

¹³Final Judgment (Adversary Nos. 02-6433 and 05-9141), Adv. No. 02-6433 [88] (Jan. 3, 2007).

substantial difficulty and expense.

One might expect either that the Turner Relatives would seek to purchase the estate's interest – so that they did not face the prospect of an unrelated party acquiring an undivided interest in the real estate or the prospect of a state court proceeding for partition of the property – or that the judgment creditors would want to purchase the undivided interest in order to seek to realize economic value from the interest for their benefit. But none of these parties with a potential strategic interest in the matter has made an offer to purchase the interest “as is,” and it appears that an “as is” sale of the undivided interest to a third party cannot happen because of title problems and that partition may be a lengthy, expensive, and possible fruitless endeavor. Thus, the controlling question with regard to abandonment is whether the Trustee must continue to seek to liquidate the estate's undivided interest, despite the difficulties and expense and despite the prospect that the result may not produce enough money to pay the administrative expenses in this case, much less to make any distribution to creditors.

Analysis begins with determination of whether the Smiths have standing to object to the abandonment. The Debtor advances two arguments in support of the proposition that they do not.

First, the Debtor asserts that the Smiths have no claim because the Court determined, in the adversary proceeding against the Debtor's wife, that the Debtor was not liable to them. But as the Court took care to make clear in its Order dealing with this issue, the determination of the Debtor's

liability to the Smiths in connection with issues relating to the Trustee's claims against Mrs. Turner has nothing to do with the Debtor's liability to the Smiths and the allowance of the Smiths's claim in this case. Thus, the Court stated:¹⁴

The Smiths' default judgment indisputably binds the Debtor as a determination of his personal liability and established a valid lien on the Debtor's property, effective in some instances against third parties, both as of the date of its rendition. For example, a timely and recorded judgment lien on real estate is effective against subsequent purchasers. As a judicial determination of a debtor's liability, a default judgment may also determine the allowability of the claim in a bankruptcy case for purposes of distribution, absent some basis for its avoidance.

The point is that the Debtor's wife was not bound by the default judgment because she was not a party to the lawsuit in which it was entered. As a party to the lawsuit, however, the Debtor is bound by it as a prepetition determination of his personal liability that existed on the date he filed his bankruptcy case. Because he was bound by the judgment, the claim is not subject to objection on the ground that it is unenforceable. See 11 U.S.C. § 502(b)(1).

The second basis the Debtor asserts for disallowance of the Smiths' claim is their alleged violation of the automatic stay and the discharge injunction by their obtaining a fi. fa. and recording it in February 2006. The Debtor has not shown any damage to the Debtor or the estate arising from this conduct. The Smiths took no postpetition action to attempt to collect the judgment as a personal liability of the Debtor. The Court is satisfied that the imposition of any sanctions for violation of the automatic stay or the discharge injunction in the context of this case is not appropriate. In any

¹⁴Order, Adv. No. 02-06433 [58] at 6-7 (Sept. 21, 2006).

event, it is not appropriate in the circumstances of this case to disallow an otherwise valid claim for this reason.

Because the Court will not disallow the claim of the judgment creditors, Mr. Smith has standing to object to abandonment of the undivided interest in the Greene County property. The Court, therefore, turns to consideration of his objection.

As indicated above, the continued effort to turn the estate's undivided interest into cash will be burdensome to the trustee and his attorneys. It may be impossible, and it could result in no proceeds beyond the costs of producing them. A strong case, then, has been made for abandoning the undivided interest.

If the estate could realize any money from the undivided interest, it is clear that the biggest and perhaps only significant beneficiary of that recovery (other than the Trustee and his lawsuit, who could be paid from the proceeds) would be the judgment creditors. Their recovery, of course, would be diminished not only by the fees and expenses that the Trustee and his attorney have already incurred, but also by the additional fees and expenses that will necessarily occur if the Trustee continues to attempt to liquidate the undivided interest. The judgment creditors could end up being either out of the money entirely or in a dispute with the Trustee and his professionals over reduction of their fees in order to leave something for creditors in the case.

At the same time, if the lien of the judgment creditors attaches to the undivided interest upon the estate's abandonment of it, they will have the opportunity to seek to collect from the asset for their benefit and at their expense. If they have such a remedy, the abandonment of the property makes perfect sense because it will place on them, as the primary beneficiaries of any recovery from the undivided interest, the burden and expense of pursuing it.

The question of the ability of the judgment creditors to enforce their lien against the undivided interest if it is abandoned is related to the Debtor's motion to avoid the lien. To resolve these questions, the Court turns to an examination of the rights of the judgment creditors and the combined effects on those rights of this bankruptcy case, the debtor's discharge, the Trustee's avoidance of the transfer of the undivided interest, and the estate's abandonment of that recovered interest.

When the judgment creditors obtained their judgment, they acquired a lien on all property of the Debtor, at least in the state of Georgia. The recordation of that judgment lien in DeKalb County perfected it against any real estate of the Debtor in DeKalb County as against a bona fide purchaser.

The filing of the bankruptcy case operated as an automatic stay of any action by the judgment creditors to enforce the lien or to collect the debt. 11 U.S.C. § 362. The debtor received a discharge, and the debt of the judgment creditors was not excepted from it. Consequently, the Debtor's discharge voided the judgment as a determination of the debtor's personal liability, 11 U.S.C. § 524(a)(1), and operated, and continues to operate, as an injunction against the collection of the debt as a personal liability of the debtor. 11 U.S.C. § 524(a)(2). The discharge injunction thus prevents a creditor from enforcing a prepetition lien with regard to a discharged debt against property that a debtor acquires after the commencement of the case. For this reason, as explained above, and as the Court has already determined, the judgment lien cannot and does not attach to any property the Debtor acquired after the filing of the case, including the Debtor's interest in the marital residence he acquired from his wife after the filing of the petition.

The discharge injunction does not, however, operate to prevent a creditor from enforcing a

lien against property of the debtor that the debtor owns at the commencement of the case, unless the property is exempt and the lien is avoided. 11 U.S.C. § 522(c)(2)(A). At the hearing, the parties agreed that all of the Debtor's personal property at the time of the filing of his case could be exempted under 11 U.S.C. § 522(b) and that the judgment lien could be avoided as to personal property under 11 U.S.C. § 522(f). Because any personal property that the Debtor now owns must be either prepetition property that is exempt under § 522(b) or property acquired after the filing of the case that cannot be subjected to the judgment lien under § 524(a)(2), it follows that the judgment lien does not and cannot encumber any personal property of the Debtor now owned or hereafter acquired.

The remaining question is whether the judgment lien attaches to the Debtor's undivided interest in the Greene County property if it is abandoned.¹⁵

As matters now stand, the Debtor's undivided interest in the Greene County property is property of the estate by virtue of the avoidance of the transfer of it to the Turner Relatives. 11 U.S.C. § 541(a)(3). In this regard, the result under bankruptcy law is the same as under state law: avoidance of a fraudulent transfer results in the transferred property being returned to the debtor and then subjected to the claims of creditors as if the transfer had not taken place. Importantly, the Debtor cannot claim an exemption in the undivided interest because he voluntarily transferred it prior to the filing of the petition. 11 U.S.C. § 522(g)(1).

The effect of the abandonment of property of the estate is that abandoned property reverts

¹⁵The Court's decision to permit abandonment of the undivided interest makes it unnecessary to decide in this case the very different question of whether the judgment lien would be effective against the estate's interest in view of the fact that the judgment lien was not recorded in Greene County at the time of the filing of the petition and, therefore, would not have been perfected as against a bona fide purchaser of the Debtor's undivided interest.

to the debtor, and the debtor's rights to the property are treated as if no bankruptcy petition was filed. 5 COLLIER ON BANKRUPTCY § 554.02[3] (15th ed. rev.). But abandonment of property to the debtor does not extinguish a valid lien on the abandoned property. Moreover, abandonment of property that the estate acquired through avoidance of a transfer does not result in a reversal of the avoidance of the transfer, *i.e.*, abandonment does not effect a reinstatement of title to the property in the transferee. Even if it did, the judgment creditors would retain their rights, under applicable state law, to avoid the transfer. In this case, of course, they were parties to the litigation in this Court that resulted in the avoidance, so there is no question about their rights to subject the Debtor's undivided interest in the Greene County property to their judgment lien upon the estate's abandonment of the undivided interest.

Under the foregoing principles, the abandonment by the estate of the undivided interest results in the property being returned to the Debtor as if he had owned it prior to the filing of his case. As such, the undivided interest, upon its abandonment in this case to the debtor, has the status of prepetition property to which the lien of the judgment creditors may attach. Stated conversely, it is not property acquired after the filing of the case to which the discharge injunction of § 524 applies. Upon abandonment of the property, the judgment creditors may proceed to enforce their judgment lien against the undivided interest in accordance with applicable state law.

This result, of course, is not only logical but imminently fair. As an initial matter, it is clear that the Trustee avoided the transfer as a result of the exercise of rights that the judgment creditors had under Georgia law.¹⁶ It would be a strange result indeed if abandonment of property recovered

¹⁶The Trustee could avoid the transfer under 11 U.S.C. § 544(b) by exercise of the rights of the judgment creditors to avoid a transfer fraudulent under state law.

in an avoidance action somehow resulted in the property being owned by the debtor but not being subjected to the claims of creditors against the property. The Bankruptcy Code does not work that way.

The Turner Relatives have no cause to complain: they received a fraudulent conveyance for no consideration and have no just reason to retain it to the detriment of the judgment creditors. And the Debtor has no legitimate interest in the outcome because he voluntarily parted with the property – a principle recognized in the provisions of § 522(g)(1) that prohibit a debtor from claiming an exemption in property that the debtor voluntarily transferred.

The Debtor's allegations that the issuance and recordation of the fi.fa. in February 2006 violated the automatic stay raise the question of whether those acts may be deemed to be void and of no effect. The issue could be important if a deadline for renewing the judgment has now expired, as counsel for the Debtor seemed to suggest at the hearing. The Court need not decide whether these acts were required to preserve the judgment lien or whether these acts violated the automatic stay. If the automatic stay did apply to prevent such actions, the time for taking them was extended until expiration of the automatic stay. 11 U.S.C. § 108(c). In any event, a dormant judgment may be revived under Georgia law. Thus, regardless of how the provisions of the automatic stay are interpreted, the judgment lien can remain enforceable under Georgia law, limited, of course, by operation of bankruptcy law as explained herein. Thus, the judgment creditors have not lost any substantive rights to enforce their lien.

As this case has progressed, it is clear that no good reason ever existed to prevent the judgment creditors from taking any technical actions required to preserve their lien rights; the pending litigation in this Court concerning the property to which the lien might attach made it clear

that any such actions could not, and did not, interfere with administration of this case or adversely affect the Debtor's post-bankruptcy rights. And the judgment creditors clearly took no actions to execute on the judgment by levying on any property.

Given the circumstances of this case, it is not appropriate that the Trustee's abandonment of the undivided interest leave any uncertainties as to the rights of the judgment creditors to proceed. Indeed, it is appropriate for the Court to end any further possible disputes concerning the validity of the judgment lien by retroactively annulling the automatic stay with regard to any actions taken by the judgment creditors relating to the issuance and recordation of their judgment in February 2006, retroactive to the time that such actions were taken.

Based on the foregoing, the Court concludes that, upon abandonment of the undivided interest in the Greene County property that the estate acquired through the avoidance action, the lien of the judgment creditors attaches to that interest. Upon abandonment of the property, they may proceed to enforce the judgment lien against it in accordance with applicable Georgia law. In view of this determination, abandonment of the undivided interest is appropriate because the judgment creditors can accomplish the same result as a bankruptcy liquidation without imposing the burden of doing so on the Trustee and his counsel who might never be paid for their services.

III. CONCLUSION

In summary, the judgment lien does not attach to property that the Debtor could exempt in this case or that the Debtor acquired after the commencement of the case, but it remains an encumbrance on any non-exempt property that the Debtor owned as of the time of filing of the case. Specifically, the judgment lien does not encumber any personal property of the Debtor and the marital residence, but it is enforceable against the Debtor's undivided interest in the Greene County,

to the extent that interest is abandoned. In view of the latter conclusion, abandonment of the undivided interest is appropriate.

Based on the foregoing, it is hereby **ORDERED and ADJUDGED** as follows:

1. The Trustee's motion for abandonment of the undivided interest in the Greene County property that the estate acquired by virtue of the avoidance of the transfer of the Debtor's interest in that property to the Turner Relatives is granted. The undivided interest is hereby abandoned as property of the estate and shall no longer be property of the estate.

2. The automatic stay of 11 U.S.C. § 362(a), to the extent applicable to the issuance and recordation of a writ of fieri facias in February 2006 is hereby annulled, retroactive to the time of such issuance and recordation. By virtue of 11 U.S.C. § 362(c)(1), the abandonment of the undivided interests terminates the automatic stay with regard to the enforcement by the judgment creditors of their lien against the abandoned undivided interest. To the extent that the automatic stay might be deemed to be applicable with regard to the Debtor's undivided interest in the Greene County property, there is no cause for its continuation, and the stay is terminated. The provisions of this Order with regard to the automatic stay shall be effective upon entry of this Order and shall not be stayed.

3. Because the undivided interest, upon abandonment, reverts to the debtor and is considered to be property of the Debtor that he owned prior to the filing of the bankruptcy case, and because he cannot claim an exemption in the undivided interest, the discharge injunction of 11 U.S.C. § 524 does not apply to the enforcement by the judgment creditors of their lien against the undivided interest.

4. The Court is entering a separate Order with regard to avoidance of the judgment lien with

regard to the Debtor's residence, 1787 Fayetteville Court, Atlanta, Georgia, 30316, which Mr. Smith does not oppose. The Debtor's Motion to Avoid Lien is granted to the extent set forth in that order. The judgment lien is further avoided with regard to any personal property now owned or hereafter acquired by the Debtor, and with regard to any other property acquired by the Debtor after the filing of his bankruptcy case on September 27, 2000. The lien is not avoided, however, to the extent that it may attach to any non-exempt, prepetition property owned by the Debtor as of the date of the filing of his bankruptcy case. Such non-exempt, prepetition property includes, specifically, the Debtor's undivided interest in the Greene County property.

The Clerk is directed to mail copies of this Order to the persons on the attached Distribution List. **[END OF ORDER]**

Distribution List

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